

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

BECKLEY DIVISION

BILLY L. HARVEY,

Plaintiff,

v.

CIVIL ACTION NO. 5:05-cv-00478

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

JUDGMENT ORDER

By Standing Order entered on July 21, 2004, and filed in this case on June 13, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation [“PF&R”]. Magistrate Judge VanDervort filed his PF&R on July 25, 2006 [Docket 18]. In that filing, the magistrate judge recommended that this Court: (1) deny Plaintiff’s Motion for Judgment on the Pleadings, (2) grant Defendant’s Motion for Judgment on the Pleadings, (3) affirm the final decision of the Commissioner, and (4) dismiss this matter from the Court’s docket.

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); *Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). Here, objections to Magistrate Judge

VanDervort's PF&R were due by August 11, 2006, pursuant to 28 U.S.C. § 636(b)(1) and FED. R. Civ. P. 72(b). No objections have been filed.

Having reviewed the Proposed Findings and Recommendation filed by Magistrate Judge VanDervort, the Court adopts the recommendations contained therein. Accordingly, the Court hereby (1) **DENIES** Plaintiff's Motion for Judgment on the Pleadings, (2) **GRANTS** Defendant's Motion for Judgment on the Pleadings, (3) **AFFIRMS** the final decision of the Commissioner, and (4) **DISMISSES** this matter from the Court's docket.

The Clerk is directed to mail a copy of this Judgment Order to all counsel of record, any unrepresented party, and Magistrate Judge VanDervort.

ENTER: August 31, 2006



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE